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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 740165-369	
Certificate of Transmission [37 CFR 1.8(a)] I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office at (571) 273-8300 on <u>Oct. 10, 2006</u> . Signature <u>Sharon L. Tabor</u> Typed or printed name <u>Sharon L. Tabor</u>		Application Number 10/757,546	Filed 01/15/2004
		First Named Inventor Shinji MORI	
		Art Unit 3654	Examiner S. Haugland
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>28,290</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>Thomas W. Cole</u> Signature <u>Thomas W. Cole</u> Typed or printed name <u>(703) 677-3001</u> Telephone number <u>October 10, 2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required. see below*.			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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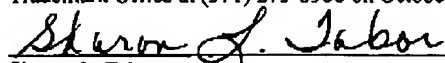
Attorney Docket No. 740165-369

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:) Confirmation No. 3068
Shinji MORI et al.) Examiner: Scott J. Haugland
Serial No. 10/757,546) Group Art Unit: 3654
Filed: January 15, 2004)
For: WEBBING RETRACTOR BELT) Dated: October 10, 2006

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Sharon L. Tabor

PRE-APPEAL BRIEF REQUEST FOR REVIEW**MAIL STOP AF**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the USPTO OG Notice of July 12, 2005, applicants hereby request a panel review of the Examiner's Final Rejection of claims 1-19 as "obvious" under 35 USC Sec. 103(a). In order for an Examiner to establish a *prima facie* case of obviousness, MPEP Sec. 706.02(j) requires him to meet three basic criteria:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable chance of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on applicant's disclosure."

As set forth in detail hereinafter, the Examiner has singularly failed to establish both the first requirement of a suggestion or motivation to modify or to combine the references, and the third requirement that the prior art references "teach or suggest the claimed combination."

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I. The Invention

As is set forth in the "Background ..." section on the last paragraph on page 3, motorized retractors used in prior art webbing retractors are disposed outside of the frame of the retractor, usually on the outer side of the side plate. Such motor retractors are typically relatively large and heavy components of the webbing retractor, comprising an electric motor, a clutch mechanism, and a gear train. Accordingly, positioning such motor retractors on the outside of a side plate of the retractor frame results in an undesirably large size, and further results in a webbing retractor with relatively poor balance characteristics. Both the large size and poor balance complicate the assembly of such prior art webbing retractors in the automotive vehicles in which they are installed.

To solve these problems, the webbing retractor of the invention includes the combination of a motorized driving mechanism and clutch for rotating the webbing spool in a take up direction which is advantageously disposed between the pair of leg plates of the frame. Such positioning of the motorized driving mechanism and clutch and associated gear train not only reduces the overall size of the webbing retractor; it further results in a retractor having a center of mass disposed substantially equidistantly between the leg plates of the frame, thereby resulting in a well-balanced component. Both of these features facilitate the installation of the webbing retractor in an automotive vehicle.

II. The Claim Limitations

Claim 1* specifically recites a webbing retractor that comprises a frame having a pair of leg plates which face one another, and are connected by a back plate so as to be integral, a spool rotatably mounted between the leg plates for winding a webbing belt therearound, and

"a driving mechanism which is disposed between the pair of leg plates such that no portion of said driving mechanism extends beyond said leg plates, said driving mechanism having an output shaft which is for rotating the spool in at least a take-up direction by driving the output shaft to rotate in a predetermined direction; and

a clutch disposed between the pair of leg plates, and mechanically interposed between the output shaft and the spool, and transmitting rotation of the output shaft to the spool. "

* As revised to obviate a Rule 112, first paragraph rejection on October 6, 2006.

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III. The Sec. 103 Rejection of Claim 1

The Examiner bases his rejection of claim 1 on the combination of Nilsson USP 4,558,832 and Kanada USP 4,787,569.

The Nilsson '832 patent discloses a take up mechanism for a safety belt having a pyrotechnic-powered automatic belt winding assembly comprising a motor 1 that is connected on either side to cap 32 and casing 33 via support rod 34 (see Figures 3 and 4). The primary objective of the Nilsson '832 patent is set forth in the "Summary of the Invention" on column 2, lines 10-16 as follows:

"[t]he invention is directed to an improvement of winding devices ensuring that the slack in a safety belt can be removed by means of a windup mechanism of simple design, which can be mounted on existing series-manufactured winding units without or with a minimum of adaptation. "

The Nilsson '832 patent achieves this objective by combining an overrunning clutch in combination with a single-chamber rotary piston drive (see col. 2, lines 17-27).

As the Examiner himself admitted on page 4 of the Final Rejection mailed June 8, 2006, "Nilsson does not disclose that the driving mechanism 1 is disposed between the pair of leg plates such that substantially no portion of the driving mechanism extends beyond an outer edge of the leg plates." To the contrary, virtually all of the motor components 1, 2 of the driving mechanism 1 extends beyond the cap 32 and casing 33, as is clearly shown in Figures 3 and 4. Even more significantly, there is not the remotest teaching or suggestion in the Nilsson '832 patent as to the desirability of extending the cap and casing to cover the driving mechanism 1.

The Examiner relies upon the disclosure of the Kanada '569 patent to provide the teachings required to modify the Nilsson '832 into the claimed invention. The Kanada '569 patent discloses a webbing retractor 10 having a take-up shaft 22 disposed between a pair of leg plates 18 and 20. (see Figure 1 and column 3, lines 11-17). Retractor 10 further includes a driving mechanism in the form of a motor 50 having a spur gear shaft 52 that engages a clutch 33 via a gear train. Clutch 33 is disposed completely outside of the leg plates 18 and 20. The Examiner justifies his Sec. 103 rejection of claim 1 by way of the following reasoning (also made on page 4 of the Final Rejection):

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"Kanada et al teaches forming a webbing belt retractor such that a driving mechanism (stationary portions of motor 50) is located between leg plates 18, 20 with no portion of the driving mechanism extending beyond an outer edge of the leg plates or outer edges of back plate 12. See Figs. 1 and 4.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to extend the leg plates of the belt retractor of Nilsson such that the driving mechanism is disposed between the pair of leg plates such that substantially no portion of the driving mechanism extends beyond an outer edge of said leg plates as taught by Kanada et al to simplify the motor mounting structure and provide greater protection for the motor."

Applicants submit that the Examiner's reasoning is flawed in at least two major respects. First, the Kanada '569 patent does not teach a driving mechanism disposed between a pair of leg plates "such that no portion of said driving mechanism extends beyond said leg plates" as is recited in claim 1. Claim 1 also recites "said driving mechanism having an output shaft." Since the claim recites that "no portion" of the driving mechanism "extends beyond said leg plates", the output shaft of the motor that comprises the driving mechanism must also not extend beyond the leg plates. As the spur gear shaft 52 of the Kanada '569 patent clearly does extend beyond the leg plate 18, 'Kanada does not disclose a webbing retractor wherein "no portion of said driving mechanism extends beyond said leg plates." Second, the teachings of the references themselves are directly contrary to the concept of "extend[ing] the leg plates of the belt retractor of Nilsson such that ...no portion of the driving mechanism extends beyond ...said leg plates" As previously pointed out, the primary objective of the Nilsson '832 patent is to provide a windup mechanism "which can be mounted on existing series manufactured automatic winding units without or with a minimum of adaptation." By contrast, extending the cap 32 and casing 33 of the Nilsson '832 would constitute a major adaptation of the structure of this retractor. And to what purpose? To "simplify the motor mounting structure" as the Examiner proposes? Hardly—such a modification would complicate the structure as a whole and make it heavier, bulkier and more expensive. To provide "greater protection of the motor" ? The motor in this case is a pyrotechnic motor encased in what amounts to an explosion-resistant shell. Such a motor hardly needs protection.

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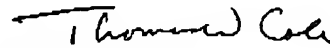
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IV. Conclusion

For all the aforementioned reasons, the Kanada '569 patent fails to provide the first requirement of MPEP 706.02(j), i.e. a suggestion or motivation to modify the Nilsson '832 retractor into the retractor defined in claim 1. It is entirely silent with respect to any advantages associated with the positioning of a driving mechanism between a pair of leg plates, and in fact does not disclose the recited driving mechanism "having an output shaft" in which "no portion of the driving mechanism extends beyond said leg plates." Moreover, the express teachings of the Nilsson '832 patent are directly contrary to such modifications, as the principal objective of Nilsson is to provide a windup mechanism that can be provided on "existing windup units without or with a minimum of adaptation." Finally, as neither Nilsson nor Kanada discloses a driving mechanism wherein "no portion...extends beyond said leg plates..." the Examiner has failed to fulfill the third requirement of Sec. 706.02(j) that the combined references "must teach or suggest all the claim limitations." Accordingly, the Sec. 103 rejection of claim 1 should be withdrawn. As the balance of the claims are ultimately dependent on claim 1, all of the claims 1-19 should be allowed.

The Commissioner is authorized to charge any overage or shortage of fees connected with this filing to Deposit Account No. 50-2478.

Respectfully submitted,

Thomas W. Cole
Registration No. 28,290

Customer No. 25570
Roberts Mlotkowski & Hobbes P.C.
P.O. Box 10064
McLean, VA 22102
Telephone: 703 677 3001
Facsimile: 703 848 2981